IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

CIVIL APPLICATION NO.693 OF 2005.

IN

SECOND APPEAL STAMP NO.15761 OF 2002.

Smt.Aminabai Abdul Kadir Patel
and anr. : Petitioners.

versus

Kalya Krishna Thakur
since deceased by his LRs
Barkuram Kalya Thakur & ors. : Respondents.

Mr.Hiranandani i/by Mr.C.G.Gavnekar for the petitioners.

CORAM : D.G.DESHPANDE,J.

DATED : 22nd September 2005.

ORAL ORDER

1. This application is for setting aside the abatement of the second appeal St.No.15761 of 2002 and for bringing the legal heirs of Respondent Nos. 1, 2 and 3 on record and condonation of delay of 61 days. Originally the appeal was filed against five respondents.

Notices of Civil Application No.370 of 2002 were issued. They were returned with remarks that respondent Nos. 1, 2 and 3 are dead. According to the appellants, they are the pardasin ladies. It took considerable time to find out who are the legal heirs of three respondents. Therefore, there was delay. In the mean time the appeal abated against the respondent Nos.1,2 and 3.

2. Rule was made returnable on 29th July 2005 by order dated 15th July 2005 and the appellants were permitted to serve the respondents with private notices. Affidavit of service was to be filed. Accordingly the affidavit of service is filed. Legal heirs, to be brought on record, have been served so also the other respondent Nos. 5 and 6 as per this affidavit. Nobody has appeared. Today nobody is present and, therefore, this civil application is allowed. Delay is condoned. Abatement is set aside. Legal heirs to be brought on record of Civil Application Nos.369 of 2002 and 370 of 2002 as well as on the record of this appeal within four weeks from today. Civil Application is disposed of.

[D.G.DESHPANDE,J]